

AmeriCorps Rulemaking - Frequently Asked Questions about the Proposed AmeriCorps Rule

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Overall

What is rulemaking?

Rulemaking is the process by which a Federal agency creates and updates the regulations that will govern the implementation of programs managed by that agency. Rulemaking is a way to address policy issues as well as to provide continuity for program operations. In general, the rulemaking process involves proposing rules, receiving public comment, and publishing final rules. In this case, the Corporation took the extra step of inviting public comment before we drafted the proposed rule.

What kinds of policy changes are made via rulemaking?

Congress passes laws. The Executive Branch carries out these laws, including by issuance of implementing regulations. All of the regulatory changes we are proposing implement current law. Other changes, such as increasing the education award, or allowing a member to receive more than two education awards, or lengthening the grant period, would all require statutory change and therefore cannot be dealt with via rulemaking.

Why is the Corporation undertaking this rulemaking?

This rulemaking is an opportunity to build a stronger AmeriCorps program, address longstanding issues, and position AmeriCorps for future growth and success. The President, Congress, and our Board have directed the Corporation to undertake a rulemaking on key issues involving the AmeriCorps program and to make our programs more efficient, effective, and accountable. In addition, currently at the Corporation, most of the guidance about implementation of the AmeriCorps*State and National program is issued on an annual basis. Incorporating AmeriCorps program guidelines and grant provisions into regulation, rather than issuing new ones every year, will allow the Corporation to give more stability and consistency to our grantees. This rulemaking provides an opportunity to strengthen and improve our programs and provide a stable and consistent environment for our grantees.

What are the directives from the President, Congress and the Board?

- Strengthening and enhancing national and community service programs is a priority for President George W. Bush. On February 27, 2004, the President signed Executive Order 13331, a directive that calls on the Corporation to leverage Federal resources to maximize support from the private sector and implement reforms that enhance program flexibility, reduce administrative burdens, and calibrate Federal assistance to the respective needs of recipient organizations.
- In the Consolidated Appropriations Act for 2004, Congress required the Corporation to undertake notice and comment rulemaking for "any significant

changes to program requirements or policy.” The law also directed the Corporation to reduce the Federal cost-per-participant and increase the level of matching funds and in-kind contributions.

- The Corporation’s Board of Directors has directed the Corporation to consolidate its grant provisions and application guidelines into regulations. In addition, last September the Board directed the Corporation to “undertake rulemaking to establish regulations on significant issues, such as sustainability and the limitation on the Federal share of program costs, consistent with any applicable directives from Congress.”

Why is it important for this rulemaking to happen now?

As the AmeriCorps program enters its second decade, we believe that addressing sustainability, match, and other longstanding issues in a fair and equitable way is the best way to ensure a long and healthy future for national service. In addition, the Corporation’s Board has asked that we resolve several key issues in time for the 2005 program year. The President’s Executive Order requires us to report on the implementation of the principles outlined in the Order, and Congress will be looking at the progress of the Corporation’s rulemaking in the context of the 2005 budget. To meet these deadlines, the Corporation began the rulemaking process in March.

What issues are being addressed via rulemaking?

The major issues the Corporation is addressing are:

- AmeriCorps grantee sustainability and limitations on the Federal share of costs (match requirements);
- Parameters for capacity-building activities by AmeriCorps members and volunteer recruitment;
- Performance measures and evaluation requirements;
- Qualifications for AmeriCorps members serving as tutors;
- Program selection criteria;
- The application process for and funding of the second and third years in a three-year grant; and
- Other proposals to make the program more efficient and effective.

The Corporation’s current AmeriCorps grant provisions and regulations are available at www.nationalservice.org/about/ogc/regulations.html. The Corporation’s current AmeriCorps guidelines are posted at www.americorps.org/resources/guidelines2004.html.

What are the steps in the rulemaking process?

There are several steps in the rulemaking process that provide the public with significant opportunities for input. Although not required by law, the Corporation sought preliminary informal public input in advance of issuing a Notice of Proposed Rulemaking (NPRM). The Corporation closely considered this input in drafting the proposed rule.

Now that the NPRM has been published in the Federal Register, the public will have 60 days to provide written comments. At the conclusion of the comment period, the Corporation will consider the public input and publish a final rule in the Federal Register, together with a summary of, and response to, the comments received during the comment period. The final rule will take effect no sooner than 30 days after its publication in the Federal Register.

What is the role for those who want to give input?

Through this process the Corporation has had an opportunity to engage those who know

the AmeriCorps program best – state commissions, national and local programs, potential grantees, and others. These individuals and organizations have had a full decade of experience directly operating AmeriCorps programs. By taking the extra step of holding public input sessions around the country before drafting the proposed rule, we were able to draw on the field's experience and capture excellent ideas, many of which are reflected in the proposed rule. We want input from the field and will be holding another series of public input sessions after the proposed rule is published.

How can I provide my input to rulemaking?

We are interested in hearing what you think about the proposed rule. There are several ways to provide input to rulemaking:

- **Public Meetings:** The Corporation will hold five public meetings to receive input on the proposed rule. The specific dates, times, and locations for these meetings, as well as instructions for registering to attend, will be posted on our website in the next few weeks.
- **Conference Calls:** The Corporation will host conference calls on August 19 and October 7. The date, time, and instructions for participating in these calls are posted on our [website](#).
- **Written Comments:** You may also submit your written comments via the following:
 - by e-mail to proposedrule@cns.gov, or through the Federal Government's one-stop rulemaking website at www.regulations.gov
 - by fax to Kim Mansaray, Docket Manager at (202)-565-2767
 - by letter to: Corporation for National and Community Service, attention Kim Mansaray, Docket Manager, 1201 New York Avenue, N.W., Washington, D.C. 20525.
 - by hand delivery or courier to the Corporation's mailroom at Room 6010 at the mail address listed in (3) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

Due to security-related delays in the Corporation's receipt of physical mail, we strongly encourage responses via e-mail or fax.

For further information about the public meetings or conference calls, you may also contact Angela Martin at (202) 606-5000, x448 or amartin@cns.gov. The TDD/TTY number is 202-565-2799.

When does the proposed rule take effect?

The rule will take effect no sooner than 30 days after publication of the final rule in the Federal Register. The final rule will include an implementation schedule. The Corporation invites comments from the public during the comment period on the timing of implementation. The 2005 Guidelines, to be published later this year, will include a specific discussion on the proposed impact of the rule.

Will you have any additional training and technical assistance resources available to help grantees follow the new rule?

Yes. The Corporation intends to provide training and technical assistance to grantees to assist them in achieving their matching goals. For example, we may provide training on documenting in-kind match to enable grantees to maximize their ability to use in-kind contributions towards their overall matching requirements. We will consult with grantees

to determine the most useful and appropriate training and technical assistance on this and other topics.

What are the next steps in the process?

The public will have 60 days to provide written comments in response to the proposed rule. At the conclusion of the comment period, the Corporation will consider the public input and publish a final rule in the Federal Register, together with a summary of, and response to, the comments received from the public during the comment period.

Is the Corporation planning any other rulemaking?

We do not plan additional rulemaking on this topic. However, the Corporation does intend to undertake a second rulemaking in order to incorporate our annual guidelines and grant provisions into regulations. We plan to complete the second rulemaking process in time for the 2006 program year.

The goal of the second phase of rulemaking is to simplify the way the Corporation communicates grants policy and procedure. As noted in the Report from the Grants Task Force to the Board of Directors, the Corporation currently relies on eight different types of documents to guide and communicate grants and program policy:

1. Statutes
2. Regulations
3. Application Guidance
4. Application Instructions
5. Administrative Guidance to State Commissions
6. Notices of Funding Availability
7. Grant Provisions or Grant Terms and Conditions
8. Program Director & Member Handbooks

Furthermore, the Corporation's regulations are currently in two different chapters within title 45 of the Code of Federal Regulations (CFR).

To reduce confusion and increase efficiency, the Corporation plans to move the application guidelines and grant provisions into regulations and consolidate all of the Corporation's regulations into Title 45, Chapter 25 of the CFR. Our goal is to end up with one primary reference document – the regulations – for organizations to use in applying for and operating national and community service programs. This process is already underway and should be completed in time for the 2006 program year.

Scope of Proposed Rule

Whom do these changes impact—AmeriCorps State and National only or VISTAs as well?

This proposed rule applies to AmeriCorps State and National only.

Do the changes apply to all parts of AmeriCorps State and National, for example, the Education Award Program?

With the exception of the matching and evaluation requirements, all other aspects of the proposed changes apply to the Education Award Program.

How will the proposed rule affect other Corporation programs, both within AmeriCorps and outside of it, such as Challenge Grants, Next Generation, Learn and Serve America, and Senior Corps?

The current proposed rule only addresses AmeriCorps State and National. However, we may consider extending some part of the rule to other programs. Such changes will only occur after appropriate public input.

Program Application and Management

How will the proposed rule affect the AmeriCorps 2005 guidelines? What about the AmeriCorps grant provisions?

The Corporation plans to release the guidelines for the 2005 program year no later than September 30, 2004. Organizations applying for funding for the 2005 program year will be asked to use the 2005 guidelines and application instructions in preparing their applications for funding. Once a final rule is published, some elements, such as performance measures and evaluation, capacity-building, and tutor requirements may become requirements for the 2005 program year, through the grant negotiation process and the 2005 grant provisions. Other elements may be held until the 2006 cycle. The grant guidelines will include instructions on this issue.

Will any part of the proposed rule affect the 2004-2005 program year that we are negotiating now?

We do not expect any significant changes to affect the 2004-2005 program year.

I am about to begin a new three year cycle in 2004-2005. How will the rule affect me?

As described above, some elements, such as performance measures and evaluation, capacity-building, and tutor requirements may become requirements in the 2005 program year – when you are in the second year of your grant. Other elements will be come effective in the following year.

What if I am a continuation in 2005-2006? How should I apply for continued funding?

As the proposed rule notes, we will implement a streamlined application on a rolling basis for continuation grants. In the meantime, you should use the 2005 guidelines and application instructions for information on applying for continuation funding. Once the Corporation has streamlined its application process for continuation funding, we will advise all grantees with appropriate notice so that they may use the new application process.

Content of Proposed Rule

Roughly speaking, what percentage do you expect to set aside for new programs each year? And what exactly does “new” mean – what if a program had a VISTA or Learn and Serve grant?

The Corporation cannot predict at this time what the percentage will be for new programs in any given year, as that percentage will depend upon the Corporation’s annual appropriation and the projected number of re-competing applications. An applicant will be considered to be new if it has not received non-formula AmeriCorps funding from the Corporation for the last five years.

The proposed regulation requires that AmeriCorps members help recruit additional volunteers. What if my organization or program has no appropriate opportunity for volunteer services?

The Corporation recognizes that some program models, such as certain professional corps, youth corps, and programs in some rural locations with a limited volunteer pool, may not be able to include volunteer recruitment and support in their program model. The Corporation will take these factors into account in determining whether to waive the volunteer leveraging requirement for an individual organization.

I run a program in a school where older students tutor younger students and there is no way they would meet the No Child Left Behind paraprofessional requirements. Do the new requirements for tutors apply to all programs?

No. Only tutors employed by a school or Local Education Agency are required to meet the paraprofessional requirements. All others need only a high school diploma, GED, or a recognized proficiency test. Your program would be exempt even from that requirement under an exception that specifically anticipates older students tutoring younger students in a school.

How do you define sustainability?

As expressed in the proposed rule, the Corporation's definition of sustainability includes many elements, from the level of an organization's community support to whether a program's members maintain their ethic of service post-AmeriCorps. A key element in the definition of sustainability is at the organizational or program level – specifically, on the financial resources of the organization or program. In other words, how can organizations that the Corporation supports better leverage Federal dollars by expanding and diversifying their non-Federal resources? We have proposed changes to the grant selection criteria that incorporate these and other elements of sustainability, so that an organization achieving sustainability through any or all of those measures will be more competitive when applying for an AmeriCorps grant.

Why is the new rule regarding sustainability so focused on financial independence?

Better leveraging of Federal dollars is a central component of this rule. The purpose is to make more resources available for more national service, to help programs expand their access to non-Federal funding, to deepen and broaden grantees' community ties, and to maximize the taxpayers' return on investment over time. The Congress and the President specifically asked us to devise solutions that significantly increase the level of matching funds and in-kind contributions.

Please note that we have included most of the sustainability criteria proposed by the field in our revised program selection criteria. We have also asked state commissions to develop and implement a sustainability approach as part of their oversight function.

Why do long-standing Corporation grantees have to match at a higher level?

The incremental increase in required match is based on three assumptions:

- Programs should become significantly more efficient in administration over time.
- Programs should get significantly better at using AmeriCorps resources, including capacity-building resources, over time.
- Community support for AmeriCorps programs should significantly broaden over time.

We want to encourage these trends and leverage them.

How did you decide upon 50% match by year 10?

The Corporation believes that a healthy organization should be able to provide 50 percent of the costs of a program by the 10th year it receives Corporation funding. This is a reasonable and incremental matching schedule that is achievable by most, if not all, grantees. We believe a significant majority can contribute more, although we are not planning any further changes in matching requirements.

What data lead you to believe that most grantees can meet increased matching requirements?

Past performance indicates that most programs will be able to meet the new match schedule. Since 2000, the average AmeriCorps program exceeded our current requirements by a substantial margin. The chart below shows the matching level of AmeriCorps*State and National programs for the 2000-2002 program years:

Budgeted Match for AmeriCorps*State and National Programs, 2000-2002

Budgeted Match	Percent of AC*State and National Programs
Over 50%	19% of programs
Greater than 40%, less than or equal to 50%	18% of programs
Greater than 30%, less than or equal to 40%	31% of programs
Greater than or equal to 25%, less than or equal to 30%	14% of programs
Less than 25%	18% of programs

Do you anticipate any future changes to grantee match requirements?

Predictability and consistency are crucial elements of this rulemaking. We seek to resolve the issue of grantee match in a way that is definitive and long-term, and that enables programs to plan and build with confidence. The Corporation does not plan any further changes to grantee match requirements.

Do the increased matching requirements apply to an individual program or an individual legal applicant? For example, if a longtime grantee wants to initiate a brand new program, does the match schedule begin at year one?

The proposed rule did not address this matter in a detailed way. The Corporation is interested in hearing input on this topic during the comment period.

How are you addressing the unique needs of rural, remote, or high poverty areas?

The Corporation has worked hard to ensure that the proposed rule strengthens the competitive process while taking into account the circumstances of individual applicants.

We believe it is reasonable to expect all grantees, even those operating in remote or impoverished communities, to achieve the level of matching we are proposing, and we expect state commissions to continue managing their portfolios to achieve even higher match levels.

If individual organizations are demonstrably at risk of not meeting the matching requirements, we intend to offer a variety of assistance, including: increased training and technical assistance; reallocation of program assets; Corporation outreach to philanthropic communities; state commission flexibility; and use of the Corporation's waiver authority for programs that demonstrate an inability, in spite of reasonable efforts, to achieve sufficient financial support to meet the matching requirements.

How does this rule create more opportunity for new grantees?

There will be more funds available as Federal dollars are better leveraged; thus a greater percentage will be available for new grantees. Also, the proposed rule reserves a percentage of non-continuation AmeriCorps State and National grant funds each year. These funds are for applicants that have not received AmeriCorps competitive funding from the Corporation for at least five years.